

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

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SACRAMENTO  
BOARD OF MEDICAL  
QUALITY ASSURANCE

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In the Matter of the Petition )  
for Reinstatement of a Revoked ) No. D-1904  
Certificate of: )  
 ) OAH No. N-28549  
MAXIMO R. SARMIENTO, M.D. )  
1684 16th Avenue )  
San Francisco, CA 94122 )  
 )  
Petitioner. )

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DECISION

The matter was heard by a hearing panel of the Seventh District Medical Quality Review Committee on February 19, 1987, in Milpitas, California.

The hearing panel consisted of: Henry R. Drinker, M.D., George E. Dueker, M.D., Carl Lester, M. Ph., Paula Robinson, R.N., Larry L. Mellott, R. Ph., and Jonathan Ng, M.D., Chairperson. Leonard L. Scott, Administrative Law Judge of the Office of Administrative Hearings, State of California, presided.

Eugenio A. Zarate, M.D., was excused from the panel during the hearing and consideration of this matter because of a conflict.

Vivian Hara-Hersh, Deputy Attorney General, represented the Division of Medical Quality.

William F. McLaughlin, Attorney at Law, represented petitioner Maximo R. Sarmiento, M.D., who was also present.

Evidence was received, the hearing was closed and the matter submitted.

The hearing panel met in executive session and made the following decision.

FINDINGS OF FACT

I

In a Decision After Reconsideration, effective July 6, 1979,

petitioner's California certificate as a physician and surgeon, number A-25276, was revoked for violations of the Business and Professions Code, section 2391.5 (violation of drug statutes) and Section 2399.5 (prescribing controlled substances or dangerous drugs without a good faith prior examination and medical indication).

In a Decision effective June 30, 1983, a hearing panel of the Seventh District Medical Quality Review Committee denied petitioner's Petition for Reinstatement of Revoked Certificate.

## II

Petitioner has filed another Petition for Reinstatement of Revoked Certificate, dated July 15, 1986, with the Board of Medical Quality Appearance.

## III

Petitioner last practiced medicine in 1979. From 1979 until the hearing on his Petition for Reinstatement in 1983, he did very little to maintain his medical skills and knowledge. Since the denial of his Petition for Reinstatement in 1983, he has attended a miscellaneous variety of category I continuing medical education courses, discussed some cases with physician friends, read some medical publications, and attended hospital staff meetings. He has attended one course of five (5) hours regarding treatment for chemical dependence.

## IV

Petitioner has not made sufficient efforts to educate himself regarding chemical dependency and prescription of dangerous drugs or controlled substances. He has not undertaken a systematic course of medical education or a physician retraining program to maintain and improve his professional competence. He is not employed and yet he has made only minimal efforts at maintaining his medical skills. He has made insufficient efforts to rehabilitate himself.

## V

The panel recommends that petitioner undertake a systematic course of medical reeducation, possibly a physician retraining course, that he take courses regarding substance abuse and prescribing of dangerous drugs and controlled substances, and that he retake and pass the State Boards.

### DETERMINATION OF ISSUES

Petitioner failed to demonstrate that cause exists pursuant to Business and Professions Code section 2307 to reinstate his revoked certificate.

ORDER

The Petition for Reinstatement of Revoked Certificate of  
Maximo R. Sarmiento, M.D., is denied.

This Decision shall be effective April 17, 1987.

IT IS SO ORDERED this 18th day of March, 1987.

By

Jonathan Ng  
JONATHAN NG, M.D., CHAIRPERSON  
Panel of Seventh District  
Medical Quality Review Committee